
SUBSTITUTE SENATE BILL 6389

State of Washington

60th Legislature

2008 Regular Session

By Senate Ways & Means (originally sponsored by Senators Brown, Schoesler, Hobbs, Rasmussen, Marr, Franklin, and Kilmer)

READ FIRST TIME 02/01/08.

1 AN ACT Relating to exempting certain military housing from property
2 and leasehold excise taxes; amending RCW 84.36.010 and 82.29A.130.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 84.36.010 and 2004 c 236 s 1 are each amended to read
5 as follows:

6 (1) All property belonging exclusively to the United States, the
7 state, or any county or municipal corporation; all property belonging
8 exclusively to any federally recognized Indian tribe located in the
9 state, if that property is used exclusively for essential government
10 services; all state route number 16 corridor transportation systems and
11 facilities constructed under chapter 47.46 RCW; and all property under
12 a financing contract pursuant to chapter 39.94 RCW or recorded
13 agreement granting immediate possession and use to the public bodies
14 listed in this section or under an order of immediate possession and
15 use pursuant to RCW 8.04.090; is exempt from taxation. All property
16 belonging exclusively to a foreign national government is exempt from
17 taxation if that property is used exclusively as an office or residence
18 for a consul or other official representative of the foreign national

1 government, and if the consul or other official representative is a
2 citizen of that foreign nation.

3 (2) For the purposes of this section, "essential government
4 services" means services such as tribal administration, public
5 facilities, fire, police, public health, education, sewer, water,
6 environmental and land use, transportation, and utility services.

7 (3) For the purposes of this section, "property belonging
8 exclusively to the United States" includes property, both real and
9 personal, together with all improvements thereto situated on land owned
10 in fee by the federal government that is used for the housing of
11 military personnel and their families, as provided by the military
12 housing privatization initiative of 1996, 10 U.S.C. Secs. 2871 through
13 2885, as amended. Such improvements, in addition to the actual housing
14 units, include, but are not limited to, facilities related to the
15 housing units, such as housing maintenance facilities, housing rental
16 and management offices, parks, and community centers. Initial
17 application to determine qualification as property belonging
18 exclusively to the United States that is used for the housing of
19 military personnel and their families must be made to the department.
20 Any change in the use that affects the qualification must be reported
21 to the department.

22 **Sec. 2.** RCW 82.29A.130 and 2007 c 90 s 1 are each amended to read
23 as follows:

24 The following leasehold interests shall be exempt from taxes
25 imposed pursuant to RCW 82.29A.030 and 82.29A.040:

26 (1) All leasehold interests constituting a part of the operating
27 properties of any public utility which is assessed and taxed as a
28 public utility pursuant to chapter 84.12 RCW.

29 (2) All leasehold interests in facilities owned or used by a
30 school, college or university which leasehold provides housing for
31 students and which is otherwise exempt from taxation under provisions
32 of RCW 84.36.010 and 84.36.050.

33 (3) All leasehold interests of subsidized housing where the fee
34 ownership of such property is vested in the government of the United
35 States, or the state of Washington or any political subdivision thereof
36 but only if income qualification exists for such housing.

1 (4) All leasehold interests used for fair purposes of a nonprofit
2 fair association that sponsors or conducts a fair or fairs which
3 receive support from revenues collected pursuant to RCW 67.16.100 and
4 allocated by the director of the department of agriculture where the
5 fee ownership of such property is vested in the government of the
6 United States, the state of Washington or any of its political
7 subdivisions: PROVIDED, That this exemption shall not apply to the
8 leasehold interest of any sublessee of such nonprofit fair association
9 if such leasehold interest would be taxable if it were the primary
10 lease.

11 (5) All leasehold interests in any property of any public entity
12 used as a residence by an employee of that public entity who is
13 required as a condition of employment to live in the publicly owned
14 property.

15 (6) All leasehold interests held by enrolled Indians of lands owned
16 or held by any Indian or Indian tribe where the fee ownership of such
17 property is vested in or held in trust by the United States and which
18 are not subleased to other than to a lessee which would qualify
19 pursuant to this chapter, RCW 84.36.451 and 84.40.175.

20 (7) All leasehold interests in any real property of any Indian or
21 Indian tribe, band, or community that is held in trust by the United
22 States or is subject to a restriction against alienation imposed by the
23 United States: PROVIDED, That this exemption shall apply only where it
24 is determined that contract rent paid is greater than or equal to
25 ninety percent of fair market rental, to be determined by the
26 department of revenue using the same criteria used to establish taxable
27 rent in RCW 82.29A.020(2)(b).

28 (8) All leasehold interests for which annual taxable rent is less
29 than two hundred fifty dollars per year. For purposes of this
30 subsection leasehold interests held by the same lessee in contiguous
31 properties owned by the same lessor shall be deemed a single leasehold
32 interest.

33 (9) All leasehold interests which give use or possession of the
34 leased property for a continuous period of less than thirty days:
35 PROVIDED, That for purposes of this subsection, successive leases or
36 lease renewals giving substantially continuous use of possession of the
37 same property to the same lessee shall be deemed a single leasehold
38 interest: PROVIDED FURTHER, That no leasehold interest shall be deemed

1 to give use or possession for a period of less than thirty days solely
2 by virtue of the reservation by the public lessor of the right to use
3 the property or to allow third parties to use the property on an
4 occasional, temporary basis.

5 (10) All leasehold interests under month-to-month leases in
6 residential units rented for residential purposes of the lessee pending
7 destruction or removal for the purpose of constructing a public highway
8 or building.

9 (11) All leasehold interests in any publicly owned real or personal
10 property to the extent such leasehold interests arises solely by virtue
11 of a contract for public improvements or work executed under the public
12 works statutes of this state or of the United States between the public
13 owner of the property and a contractor.

14 (12) All leasehold interests that give use or possession of state
15 adult correctional facilities for the purposes of operating
16 correctional industries under RCW 72.09.100.

17 (13) All leasehold interests used to provide organized and
18 supervised recreational activities for persons with disabilities of all
19 ages in a camp facility and for public recreational purposes by a
20 nonprofit organization, association, or corporation that would be
21 exempt from property tax under RCW 84.36.030(1) if it owned the
22 property. If the publicly owned property is used for any taxable
23 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and
24 82.29A.040 shall be imposed and shall be apportioned accordingly.

25 (14) All leasehold interests in the public or entertainment areas
26 of a baseball stadium with natural turf and a retractable roof or
27 canopy that is in a county with a population of over one million, that
28 has a seating capacity of over forty thousand, and that is constructed
29 on or after January 1, 1995. "Public or entertainment areas" include
30 ticket sales areas, ramps and stairs, lobbies and concourses, parking
31 areas, concession areas, restaurants, hospitality and stadium club
32 areas, kitchens or other work areas primarily servicing other public or
33 entertainment areas, public rest room areas, press and media areas,
34 control booths, broadcast and production areas, retail sales areas,
35 museum and exhibit areas, scoreboards or other public displays, storage
36 areas, loading, staging, and servicing areas, seating areas and suites,
37 the playing field, and any other areas to which the public has access
38 or which are used for the production of the entertainment event or

1 other public usage, and any other personal property used for these
2 purposes. "Public or entertainment areas" does not include locker
3 rooms or private offices exclusively used by the lessee.

4 (15) All leasehold interests in the public or entertainment areas
5 of a stadium and exhibition center, as defined in RCW 36.102.010, that
6 is constructed on or after January 1, 1998. For the purposes of this
7 subsection, "public or entertainment areas" has the same meaning as in
8 subsection (14) of this section, and includes exhibition areas.

9 (16) All leasehold interests in public facilities districts, as
10 provided in chapter 36.100 or 35.57 RCW.

11 (17) All leasehold interests in property that is: (a) Owned by the
12 United States government or a municipal corporation; (b) listed on any
13 federal or state register of historical sites; and (c) wholly contained
14 within a designated national historic reserve under 16 U.S.C. Sec. 461.

15 (18) All leasehold interests in the public or entertainment areas
16 of an amphitheater if a private entity is responsible for one hundred
17 percent of the cost of constructing the amphitheater which is not
18 reimbursed by the public owner, both the public owner and the private
19 lessee sponsor events at the facility on a regular basis, the lessee is
20 responsible under the lease or agreement to operate and maintain the
21 facility, and the amphitheater has a seating capacity of over seventeen
22 thousand reserved and general admission seats and is in a county with
23 a population of over three hundred fifty thousand, but less than four
24 hundred twenty-five thousand. For the purposes of this subsection,
25 "public or entertainment areas" include box offices or other ticket
26 sales areas, entrance gates, ramps and stairs, lobbies and concourses,
27 parking areas, concession areas, restaurants, hospitality areas,
28 kitchens or other work areas primarily servicing other public or
29 entertainment areas, public rest room areas, press and media areas,
30 control booths, broadcast and production areas, retail sales areas,
31 museum and exhibit areas, scoreboards or other public displays, storage
32 areas, loading, staging, and servicing areas, seating areas including
33 lawn seating areas and suites, stages, and any other areas to which the
34 public has access or which are used for the production of the
35 entertainment event or other public usage, and any other personal
36 property used for these purposes. "Public or entertainment areas" does
37 not include office areas used predominately by the lessee.

1 (19) All leasehold interests in any property belonging exclusively
2 to the United States as that term is used in RCW 84.36.010.

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